

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Special Meeting of Milpitas City Council – Study  
Session on Affordable Housing  
**Date:** Wednesday, January 31, 2018  
**Time:** 5:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

### CALL TO ORDER

Mayor Tran called the meeting to order at 5:00 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Mayor Tran, Vice Mayor Grilli, Councilmembers Barbadillo, Nuñez and Phan

**ABSENT:** None

Mayor Tran led all in the pledge of allegiance.

Mayor Tran welcomed the City's interim City Manager Dianne Thompson at the dais.

### PUBLIC FORUM

Matthew Reed, policy manager for Silicon Valley at Home, thanked Council for this discussion on opening up affordable housing. He was pleased the City wanted to address the affordability challenge which needed money, land and community will. Consider adopting a commercial linkage fee and strengthen the existing city's existing requirement for inclusionary housing by raising current impact fees up to 15%, same as other cities within Santa Clara County.

Councilmember Nuñez had some comments on Silicon Valley at Home and a recent meeting held at Milpitas City Hall, only for elected officials, not members of the public. The meeting's leader made some residents and staff leave the meeting since it was for elected officials only. Mr. Nuñez wanted to know the list of Board members of SV@Home and wished for a report back about that situation.

Allysson McDonald, Milpitas resident, encouraged the City Council to move forward on long overdue changes to affordable housing policy in Milpitas. Three aspects to this policy included: protect tenants, preserve existing affordable housing and increase the production of affordable housing. Bring up the inclusionary rate to what other cities were doing in the Valley. Policies should apply to both rental market and for-sale units.

Dennis Martin, BIA Bay Area, referred to a letter his group had submitted to the Council. He asked the Council to look at the nexus study the City had done, and consider the tables in the study. Commercial impact fees in the study were 4 to 5 times the maximum fee supported for residential fees. Fair fee levels would be needed, while working in concert with other cities. Optional compliance should be worked into any ordinance. A reasonable pipeline exemption should be included. Total fee load report was called for.

Pat Sacedo, from NAOIP, had a different perspective while understanding the critical housing shortage. She was supportive of more affordable housing, while holding a concern about commercial linkage fees. The City needed to have a good housing-jobs balance and NAOIP disagreed with those linkage fees. If going ahead, do not move to fees any higher than City of Fremont recently adopted.

### STUDY SESSION

Planning Director Brad Misner thanked the City Council for leadership on this topic of affordable housing. He reviewed meetings held to date on this subject and listed the purpose of this study session. Council direction and feedback was sought before the meeting was concluded.

Deputy City Attorney Katy Wisinski addressed the City Council on recently adopted statewide legislation affecting housing and housing policy. She identified fifteen bills adopted in Sacramento in 2017 on significant changes in the law with an impact on Milpitas and all cities.

First was the legislative goal to reinstitute inclusionary housing requirements in cities, for both rental and ownership units. Next was increasing housing data collection and analysis, in the General Plan including its Housing Element. More data, following analysis, would be required to be reported to the state Housing and Community Development (HCD) department in the annual progress reports.

Ms. Wisinski described the Housing Accountability Act which had been updated with much refinement about projects covered, density of housing development, reviewing adherence to law and potentially imposed substantial fines. She described also new rules that cities must identify sites for housing of all income levels, and where assigned densities will accommodate housing required in a City's RHNA.

Senate Bill 35 was adopted for streamlined ministerial approval for qualifying projects, which could allow for no need for CEQA clearance. Faster review and approval of qualifying projects was required, 60 or 90 days for consistency review, and design review within 90 or 180 days (depending on number of units). Other tools would include: Workforce Housing Opportunity Zones and Housing Sustainability Districts. Preserving affordable units was the goal of the Preservation Notice law (AB 1521). Notice, injunctive relief, and more qualifications were necessary.

Lastly, the Deputy City Attorney identified two new major funding sources for assistance, with adoption of Senate Bill 2 (Building Homes and Jobs Act) and Senate Bill 3 (Veterans and Affordable Housing Bond Act), through issuance of a \$4 billion general obligation bond.

Councilmember Nuñez commented on the impact of several of the bills on the City of Milpitas, and the urgent need to bring more housing to the community.

Councilmember Barbadillo, considering land area allotted for all uses, asked what was the realistic legislation that was applicable to Milpitas? Ms. Wisinski responded that all the changes applied equally across the state, and the City would need to find a way to accommodate the changes. SB 35 had perhaps the tools with the most immediate impact, with the fastest turnaround.

Mr. Barbadillo asked to look at statistics of residential areas already filled up, look at the soon to be reviewed General Plan, incorporate median income, then see what policy to develop, including impact fees (increase or decrease), or change in lieu fees. Do include an inclusionary housing fee requirement at 15% as recommended, if that was reasonable for Milpitas.

Councilmember Phan inquired details on the defined levels of income to be considered for affordable housing and City Attorney referred to a chart in the report, defining low income, extremely low, and moderate income, based on the AMI (area median income). He inquired about density bonuses and the attorney described when those could be possible for developers.

The City's Housing Manager, Tim Wong, responded to a question from Mr. Phan, regarding reporting of numbers of affordable housing units built, in the annual report, against the RHNA numbers.

Councilmember Nuñez discussed projects needed for the number of affordable units, 2960, while 260 was all that had been built, which staff confirmed. He wished to be clear on what was available for building and what land could be set aside for development. Mr. Misner commented further.

Josh Abrams, consultant on the nexus study, explained the City Council could decide which income categories it would like to target types of affordable housing to be built for, in this community.

Mayor Tran noticed he had not seen any information on accessory dwelling units. Where would that come in? Mr. Misner responded that those were another tool for provision of housing, and staff was working on comparing new state laws and what was already permitted in the City's local ordinance.

City Council took a break at 6:55 PM and reconvened 15 minutes later.

Next, staff spent some time describing in detail the inclusionary housing fee options, for in lieu fee versus an impact fee. Councilmembers wanted to learn how the housing nexus study related to the implementation of various types of fee options, all in order to yield more affordable housing.

Councilmember Phan wanted to know if the City required payment of prevailing wages to increase the cost of housing construction in order to yield a higher amount of in lieu fees to the City.

Councilmember Nuñez asked for historical context of the City's current 5% in lieu fee, to which staff including the attorney commented while all stated they were not with the city when the past City Council adopted that rate. He wanted to understand practically how the 5% of construction cost fee of a project would yield an amount – higher or lower – than the 15% inclusionary housing amount maximum in a new development project, as newly allowed following completion of the nexus study.

Workforce housing zones could be established within an existing specific plan, said Ms. Wisinski.

Mr. Misner identified five points, following the information presented, and sought Council direction on these:

- 1) Further explanation on the legislative update
- 2) Revisions to inclusionary housing requirement of 5% of ownership units affordable of total
- 3) Adoption of including affordable housing requirement for rental residential units
- 4) Adoption of an affordable housing impact fee, residential or commercial
- 5) Consider zoning incentives, process improvements, possible increased density bonus options

Mayor Tran thanked the staff, and commented that he was concerned about use of commercial impact fees, and to break that one down.

Vice Mayor Grilli agreed with the five points to have further study on. If other cities in the area did institute a commercial impact fee, she would want to learn how that worked, and if it would be helpful in Milpitas.

Councilmember Nuñez was most interested in a timeline to do a study and for staff to return to City Council. Mr. Misner needed to be clear on how much outreach the Council would like with the public, and could move forward on an ordinance working with City Attorney on a possible inclusionary ordinance to bring to Planning Commission in March or April, and then to City Council. Mr. Misner further defined zoning incentives and density bonus in response to Mr. Nuñez.

Councilmember Barbadillo felt the Council did not have to reinvent wheel, and asked all to look at June 2, 2015 Council agenda, when the Council considered the recommendation from the Planning Commission. The findings made then, three years ago, may be applicable at this time or be updated to current needs for further affordable housing policy. Then, he urged Council to move ahead on the policies available or offered by staff and not start “brand new.”

Mayor Tran asked if the 5% in lieu fee would have to be paid if a developer did not want to pay it, per the adopted resolution. City Attorney Diaz said it would apply across the board. He recommended for the future to put this requirement into law via an adopted ordinance. The Mayor would like that amount to be increased substantially.

Councilmember Phan cautioned that the Council should not jump the gun too far ahead and to stay mindful on the effects a policy could have on businesses. He asked about fees charged to developers. Mr. Misner responded that staff could provide a full view of all fees charged by the City to developers of a project, including public art fee, in lieu fee, connection fees, plan check fees, building inspection and permit fees and more. Mr. Phan inquired about Transit Occupancy Tax (hotel tax) and staff explained where those funds were allocated.

Mr. Phan stated he was reluctant to change new fees for affordable housing when the City was already charging fees that were going elsewhere. The City Council needed to re-assess where current funds were going, before new fees would be imposed for affordable housing. He was concerned about commercial impact fees, while noting wages and salary had the most impact on possible home ownership. An economic impact study would be a pre-requisite before any new fees were established.

Mayor Tran agreed with Mr. Phan regarding commercial impact fees, since he was worried about other recently increased fees in the City.

Councilmember Nuñez reminded the Council the subject of the meeting was affordable housing. Leasing versus building a commercial building in the area was mentioned. The policy should be about those who lived and worked in this City. Those most affected by cost of living in Silicon Valley were those in the entry level, who cannot survive on minimum wage here. Look at possible fees, density bonuses or other actions, soon.

Vice Mayor Grilli agreed that the Council should look at all the possible tools, as noted in the five recommendations from the Planning Director. She did not think the City should discard the possible commercial impact fees, when other cities were including those. Consider all options, she urged.

Councilmember Barbadillo believed Council's approach on this topic needed to be based on data received, especially concerning fees. Two ways to focus: on new development of housing and the existing ones. He would like to move ahead if there could be more units built on existing land, where housing already existed, as he had seen in Los Gatos. Also, there could be more streamlining, for instance, on garage conversions while still allowed in Milpitas.

Mr. Barbadillo felt the City should facilitate and encourage housing in existing structures. Park in lieu requirement exists with a 1.7 vehicle ratio, put measures on it and be creative to allow more spaces. Some people were unable to pay rent, so maybe the City could assist current residents with that concern. He asked if it would be legal to do away with in lieu fees.

Councilmember Phan commented on fees and competitiveness with regard to large companies potentially locating in cities. Consider economic impacts, he urged.

Deputy City Attorney Wisinski summarized what took place at this meeting, the five items identified by the Planning Director, and what staff believed the City Council would like to proceed with as priorities for the City's affordable housing policies, including a potential ordinance to be brought back by the City Attorney for Council consideration.

## **ADJOURNMENT**

The special City Council meeting was adjourned at 8:37 PM.

**The foregoing minutes were approved by Milpitas City Council on February 20, 2018.**

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**Mary Lavelle**  
**Milpitas City Clerk**